

1 **VOLUNTEER HEALTH CARE CONTINUING EDUCATION**

2 **CREDIT**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: David E. Lifferth**

6 Senate Sponsor: _____



8 **LONG TITLE**

9 **General Description:**

10 This bill addresses continuing education credit for a health care professional.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ allows a health care professional to fulfill a portion of the health care professional's
- 15 continuing education requirement, established by the Division of Occupational and
- 16 Professional Licensing, by providing hours of uncompensated health care; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **58-13-3**, as last amended by Laws of Utah 2014, Chapter 400



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **58-13-3** is amended to read:



28 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

29 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care
30 and preventive health care because they lack health insurance or because of financial
31 difficulties or cost.

32 (ii) The Legislature also finds that many physicians, charity health care facilities, and
33 other health care professionals in this state would be willing to volunteer medical and allied
34 services without compensation if they were not subject to the high exposure of liability
35 connected with providing these services.

36 (b) The Legislature therefore declares that its intention in enacting this section is to
37 encourage the provision of uncompensated volunteer charity health care in exchange for a
38 limitation on liability for the health care facilities and health care professionals who provide
39 those volunteer services.

40 (2) As used in this section:

41 (a) "Continuing education requirement" means the requirement for hours of continuing
42 education, established by the division, with which a health care professional must comply to
43 renew the health care professional's license under the applicable chapter described in
44 Subsection (2)(c).

45 ~~(a)~~ (b) "Health care facility" means any clinic or hospital, church, or organization
46 whose primary purpose is to sponsor, promote, or organize uncompensated health care services
47 for people unable to pay for health care services.

48 ~~(b)~~ (c) "Health care professional" means a person licensed under:

49 (i) Chapter 5a, Podiatric Physician Licensing Act;

50 (ii) Chapter 16a, Utah Optometry Practice Act;

51 (iii) Chapter 17b, Pharmacy Practice Act;

52 (iv) Chapter 24b, Physical Therapy Practice Act;

53 (v) Chapter 31b, Nurse Practice Act;

54 (vi) Chapter 40, Recreational Therapy Practice Act;

55 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

56 (viii) Chapter 42a, Occupational Therapy Practice Act;

57 (ix) Chapter 44a, Nurse Midwife Practice Act;

58 (x) Chapter 49, Dietitian Certification Act;

- 59 (xi) Chapter 60, Mental Health Professional Practice Act;
- 60 (xii) Chapter 67, Utah Medical Practice Act;
- 61 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- 62 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- 63 (xv) Chapter 70a, Physician Assistant Act; and
- 64 (xvi) Chapter 73, Chiropractic Physician Practice Act.

65 [~~e~~] (d) "Remuneration or compensation":

66 (i) (A) means direct or indirect receipt of any payment by a health care professional or
67 health care facility on behalf of the patient, including payment or reimbursement under
68 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the
69 patient; and

70 (B) compensation, salary, or reimbursement to the health care professional from any
71 source for the health care professional's services or time in volunteering to provide
72 uncompensated health care; and

73 (ii) does not mean:

74 (A) any grant or donation to the health care facility used to offset direct costs
75 associated with providing the uncompensated health care such as:

76 (I) medical supplies;

77 (II) drugs; or

78 (III) a charitable donation that is restricted for charitable services at the health care
79 facility; or

80 (B) incidental reimbursements to the volunteer such as:

81 (I) food supplied to the volunteer;

82 (II) clothing supplied to the volunteer to help identify the volunteer during the time of
83 volunteer services;

84 (III) mileage reimbursement to the volunteer; or

85 (IV) other similar support to the volunteer.

86 (3) A health care professional who provides health care treatment at or on behalf of a
87 health care facility is not liable in a medical malpractice action if:

88 (a) the treatment was within the scope of the health care professional's license under
89 this title;

90 (b) neither the health care professional nor the health care facility received
91 compensation or remuneration for the treatment;

92 (c) the acts or omissions of the health care professional were not grossly negligent or
93 willful and wanton; and

94 (d) prior to rendering services:

95 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
96 patient's parent or legal guardian, that the health care professional is providing the services
97 without receiving remuneration or compensation; and

98 (ii) the patient consented in writing to waive any right to sue for professional
99 negligence except for acts or omissions which are grossly negligent or are willful and wanton.

100 (4) A health care facility which sponsors, promotes, or organizes the uncompensated
101 care is not liable in a medical malpractice action for acts and omissions if:

102 (a) the health care facility meets the requirements in Subsection (3)(b);

103 (b) the acts and omissions of the health care facility were not grossly negligent or
104 willful and wanton; and

105 (c) the health care facility has posted, in a conspicuous place, a notice that in
106 accordance with this section the health care facility is not liable for any civil damages for acts
107 or omissions except for those acts or omissions that are grossly negligent or are willful and
108 wanton.

109 (5) A health care professional who provides health care treatment at a federally
110 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an
111 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health
112 Care Improvement Act, is not liable in a medical malpractice action if:

113 (a) the treatment was within the scope of the health care professional's license under
114 this title;

115 (b) the health care professional:

116 (i) does not receive compensation or remuneration for treatment provided to any
117 patient that the provider treats at the federally qualified health center, the Indian health clinic,
118 or the Urban Indian Health Center; and

119 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the
120 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban

121 Indian Health Center;

122 (c) the acts or omissions of the health care professional were not grossly negligent or
123 willful and wanton; and

124 (d) prior to rendering services:

125 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
126 patient's parent or legal guardian, that the health care professional is providing the services
127 without receiving remuneration or compensation; and

128 (ii) the patient consented in writing to waive any right to sue for professional
129 negligence except for acts or omissions that are grossly negligent or are willful and wanton.

130 (6) Immunity from liability under this section does not extend to the use of general
131 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
132 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

133 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare
134 professional on or after May 13, 2014.

135 (8) A health care professional may fulfill up to 25% of the health care professional's
136 continuing education requirement with hours the health care professional spends providing
137 health care treatment described in Subsection (3) or (5).

Legislative Review Note
Office of Legislative Research and General Counsel